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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(137)

CR-1676-2024

Date of Decision: - 05.11.2024

M/s Ex-Soldier Security Force through its Proprietor & Anr.

....Petitioners

Versus

Origo Commodities India Pvt. Limited through its Managing
Director

....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Mukesh Arora, Advocate,
for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 24.07.2023 (Annexure P-1) passed by the Civil Judge (Junior Division), Patiala.

2. The Madras High Court vide *judgment dated 12.07.2002 passed in CRP(PD) No.3576 of 2001 titled as K.S. Geetha Vs. Stanleybuck*, had observed that once the plaint is rejected on the application moved under Order 7 Rule 11 CPC and there is nothing pending in the Court then the same is a formal expression of an adjudication, which so far as regards the Court expressing it, conclusively determines the rights of the parties and after taking into consideration



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Section 2 of the Code of Civil Procedure, which defines the term “decree” and states that the said decree shall be deemed to include rejection of the plaint, held that in such a situation, an appeal would lie under Section 96 of the Code and had further observed that in case the plaint has been rejected, only remedy for the plaintiff, who is aggrieved, is to file an appeal and not to file a revision petition. Relevant portion of the said judgment is reproduced hereinbelow:-

“xxx xxx

8. *At the time of hearing, the learned counsel for the respondents/defendants raised a preliminary objection as to the maintainability of the Civil Revision Petition. The learned counsel contended, as against the order of rejection of a plaint, appeal only lies and that being so, this revision petition is liable to be dismissed. Per contra, the learned counsel for the petitioner would submit that the Courts have held that a Civil revision petition is also maintainable and that there is no substance in the preliminary objection as put forward by the learned counsel for the respondents. In the event of this Court coming to the conclusion that the preliminary objection raised by the respondents is sustainable then it will be a futile exercise to refer to and consider the other points raised. In this view of the matter, this Court desires to consider that issue first, before considering the other issues that arises for consideration.*

9. *Order 7 Rule 11 of Code of Civil Procedure deals with rejection of plaint. Once the plaint is rejected, then obviously nothing is pending before the Court. That order is formal expression of an adjudication, which so far as regards the Court expressing it, conclusively determines the rights of the parties. In fact, [Section 2](#) of the Code of Civil Procedure which defines the term decree specifically states that the decree shall be deemed to include rejection of the plaint. Section 96 of the Code deals with appeal from original decrees. The claim of the respondents is that the order rejecting plaint being the decree by the trial Court, the only remedy, if plaintiff is aggrieved,*



is by way of filing an appeal and not by filing revision petition.

10. The learned counsel would place strong reliance on the ruling of the Full Bench of this Court reported in **AIR 1952 Madras 86 (Satyanarayanacharyulu v. Ramalingam)** (FB). In that case, the petitioners filed a suit in the Subordinate Court for declaration and for other reliefs and paid a fixed Court fee of Rs.100/- under Sec.17-A of Schedule II, Court Fees Act valuing the suit for the purposes of jurisdiction at Rs.3,600/-. The question arose was whether the Court fee paid has been correct and after considering the objection the Subordinate Judge came to the conclusion that the suit has been grossly under valued and directed the petitioner/plaintiff to pay an additional Court fee of Rs.400/-. The order directing payment of additional Court fee was made on 14.3.1947 and a period ten days time was given for payment of the deficit court fee. The suit was adjourned to 24.3.1947 and by that time, as the deficit court fee was not paid as per the order dated 14.3.1947, the plaint was rejected. A revision was filed against the order dated 24.3.1947. The Full Bench approving the view taken in an earlier ruling reported in **1942 (1) MLJ 569 (Ratnavelu Pillai v. Varadaraja Pillai)**, ruled that if the order directing payment of additional Court fee was not complied with and it was followed by an order dismissing the suit, a revision would not be maintainable and the remedy is only by way of an appeal against the decree. Or in other words, the Court ruled that once a plaint is rejected, the remedy for the plaintiff is only to file an appeal and not a revision petition.

A learned single Judge of this Court had occasion to consider a similar question and after considering the ruling of the Full Bench referred supra as well as other rulings viz., **AIR 1924 Oudh 413 (Harihar Bakhsh Singh v. Jagannath Singh)**; **AIR 1956 Hyderabad 133 (Radhakishen v. Wali Mohammed)**; and **AIR 1957 Pepsu 14 (Badri Nath v. State of Pepsu)**, clearly ruled that both from the section and those decisions it is clear that only appeal will lie against rejection of plaint and it is not limited to such cases wherein the plaint was rejected for the reasons stated under **Order 7, Rule 11 of Code of Civil Procedure**.

In a recent ruling of this Court reported in 1998(3) CTC 165 : (1999 AIHC 470) (Nesammal v. Edward) a learned single Judge referred extensively the various rulings including AIR 1976 Madras 289 (R.Shanmughavelu Pillai v. R.Karuppannan Ambalam) and concurred with it.

11. *Thus, the legal position from the above rulings is that as against the order rejecting the plaint, only an appeal lies and not a revision.*

xxx xxx”

3. In view of the same, learned counsel for the petitioners seeks permission of this Court to withdraw the present revision petition with liberty to the petitioners to file an appeal in accordance with law.
4. In view of the above, the present revision petition is dismissed as withdrawn with the liberty aforesaid.

November 05, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No